

# EXHIBIT A

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

THE TRUSTEES OF THE WELFARE AND PENSION FUNDS OF LOCAL 464A – PENSION FUND, et al.,  
Individually and on Behalf of All Others Similarly Situated,  
Plaintiffs,  
vs.  
MEDTRONIC PLC, et al.,  
Defendants.

) Civ. No. 0:22-cv-02197-KMM-JFD  
)

) CLASS ACTION  
)

) DECLARATION OF PHILIP T. LAVIN,  
PH.D. IN SUPPORT OF PLAINTIFF'S  
MOTION FOR LEAVE TO FILE A  
FIRST AMENDED COMPLAINT FOR  
VIOLATIONS OF THE FEDERAL  
SECURITIES LAWS  
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I, PHILIP T. LAVIN, PH.D., declare as follows:

1. I have been asked by Robbins Geller Rudman & Dowd LLP to evaluate Medtronic's submission for FDA approval of the MiniMed 780G insulin pump; the FDA's inspection of Medtronic's diabetes business headquarters in Northridge, California; the July 7, 2021 Form 483; and Medtronic's correspondence to the FDA following receipt of the Form 483. I have also been asked to evaluate the significance of items identified by the FDA on Form 483. The following is based upon evaluation of the relevant documents and sources discussed herein, my education, and my decades of relevant training and experience. Appended hereto is my curriculum vitae.

2. I am currently the Principal of a Boston-based biostatistics consulting practice, Lavin Consulting LLC, in business for 12 years, Executive Director for a not-for-profit research foundation, Boston Biostatistics Research Foundation, in business for 36 years, and co-founder of Melior Capital Management. In 1983, I founded and served as CEO for Boston Biostatistics, Inc., which became Averion in 2001, which grew into Averion International in 2006, which, upon a merger, became Aptiv Solutions in 2011, and which was purchased by ICON plc in 2014.

3. I received my Ph.D. in Applied Mathematics from Brown University in 1972. I have over 50 years of experience in the field of biostatistics as a: (1) faculty member at Brown University (2 years), Harvard School of Public Health (7 years), and Harvard Medical School (21 more years); (2) an FDA Advisory panel member and Special Government Employee (33 years); and (3) an expert consultant to the pharmaceutical, biotechnology, and medical device industries (50 years). I have authored or co-authored

>200 peer-reviewed publications. As relevant here, my work has contributed to the approval or clearance of 81 FDA-regulated products to date through Premarket Approvals (PMAs), New Drug Applications (NDAs), Biologic License Applications (BLAs), 510(k) de novos, as well as a Humanitarian Device Exemption (HDE).

4. I am the only person to be an elected Fellow of both the Regulatory Affairs Professional Society and the American Statistical Association.

5. During my career, I have attended FDA meetings to discuss topics similar to the FDA's observations made during its inspection of the Northridge facility. An example would be the Gliatech AIP concerning its adhesion barrier medical device. I have attended >150 FDA meetings concerning medical devices between 1983 and 2015 when I served as a Special Government Employee. I additionally reviewed regulatory submissions, regulatory policies, and served on multiple FDA advisory panels.

6. Medtronic sought FDA approval for its next-generation insulin pump – the MiniMed 780G device – by submitting a “PMA supplement” to the “original PMA” for the MiniMed 670G device.<sup>1</sup> The FDA permits PMA supplements to be used in lieu of a new, standalone PMA when a medical device company wishes to update a device that has already obtained FDA approval. Relevant regulations provide that “[a]fter FDA’s approval of a PMA, an applicant shall submit a PMA supplement for review and approval by FDA before making a change affecting the safety or effectiveness of the device for which the

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<sup>1</sup> <https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfpma/pma.cfm?id=P160017S091> (demonstrating that the MiniMed 780G was submitted for approval pursuant to a “PMA supplement” to the linked “original PMA.” The “original PMA” link takes the user to the MiniMed 670G PMA).

applicant has an approved PMA[.]”<sup>2</sup> The regulations provide that changes for which a PMA supplement may be used include, among others, “[n]ew indications for use of the device,” “[l]abeling changes,” and “[c]hanges in packaging.”<sup>3</sup>

7. In this case, the PMA supplement for the MiniMed 780G device sought “modifications to the SmartGuard Technology and for expanding the indications for use to include the Guardian 4 Sensor.”<sup>4</sup> Medtronic indicated in the Summary of Safety and Effectiveness Data that the MiniMed 780G PMA supplement “was submitted to introduce the MiniMed 780G System, which updates the pump control algorithm from the Hybrid Closed Loop (HCL) algorithm to the Advanced Hybrid Closed Loop (AHCL) algorithm and to add compatibility to the new Guardian 4 Continuous Glucose Monitor (CGM) as an alternative CGM component for the system.”<sup>5</sup>

8. I understand that the MiniMed 670G device suffered from a defect related to the retainer ring used to lock together the pump and insulin cartridge, which resulted in the receipt of more than 74,000 complaints between June 2016 and November 2019. I understand that in November 2019 Medtronic issued a “Field Safety Notification” directing users of two models of MiniMed 600 Series pumps to examine their pumps’ retainer ring and notify Medtronic if the ring appeared damaged or missing. I further understand that the FDA classified the Field Safety Notification as a Class I recall in February 2020 that

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<sup>2</sup> 21 C.F.R. §814.39.

<sup>3</sup> *Id.*

<sup>4</sup> <https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfpma/pma.cfm?id=P160017S091>

<sup>5</sup> [https://www.accessdata.fda.gov/cdrh\\_docs/pdf16/P160017S091B.pdf](https://www.accessdata.fda.gov/cdrh_docs/pdf16/P160017S091B.pdf)

affected all four models of MiniMed 600 Series pumps. I understand that the FDA inspected Medtronic's Northridge facility – which was the headquarters for Medtronic's diabetes business that was responsible for both the MiniMed 670G and 780G devices – between June 7 and July 7, 2021. I understand that the FDA identified three categories of facility- and process-based deficiencies relating to Medtronic's ability to correct, prevent, investigate, and document the MiniMed 670G defects, which it described in a Form 483, dated July 7, 2021 (discussed below).

9. A Class I recall of a device is one that applies to "a situation in which there is a reasonable probability that the use of, or exposure to, a violative product will cause serious adverse health consequences or death."<sup>6</sup> Following a Class I recall related to a device, the FDA routinely conducts inspections of the facility or facilities responsible for manufacturing and monitoring the device to determine the cause(s) of the defect, assess whether the defect has been remedied, and assess the adequacy of the facility's processes and procedures meant to detect, address, and remedy product quality issues.<sup>7</sup> Consistent with this fact, following the Class I recall related to the defective retainer ring, the FDA

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<sup>6</sup> <https://www.fda.gov/medical-devices/postmarket-requirements-devices/recalls-corrections-and-removals-devices>

<sup>7</sup> Federal regulations permit FDA inspectors "to enter, at reasonable times, any factory, warehouse, or establishment in which food, drugs, devices, tobacco products, or cosmetics are manufactured, processed, packed, or held, for introduction into interstate commerce . ." See 21 U.S.C. §374. Inspections of establishments where devices are made "shall extend to all things therein (including records, files, papers, processes, controls, and facilities) bearing on whether . . . devices . . . which are adulterated or misbranded within the meaning of this chapter . . . or have been or are being manufactured, processed, packed, transported, or held in any such place, or otherwise bearing on violation of this chapter." *Id.*

inspected Medtronic's diabetes facility in Northridge, California between June 7 and July 7, 2021. On July 7, 2021, the FDA presented the findings of its inspection to Medtronic on a Form 483.

10. A Form 483, issued at the conclusion of an FDA inspection, is an inspection report established by federal statute.<sup>8</sup> Among other things specific to device hardware and software malfunctions, it can also include findings which reflect Good Clinical Practice (GCP) compliance issues, Standard Operating Procedures (SOP) violations, and insufficient documentation. The Form 483 must be presented to the owner, operator, or agent in charge of the inspected facility and it must include the observations of conditions or practices which, in the FDA inspector's judgment, indicate that a device "may have been rendered injurious to health."<sup>9</sup>

11. The July 7, 2021 Form 483 identified three broad categories of systemic, facility-level deficiencies that impacted the processes and safety controls (or lack thereof) at the Northridge facility, as follows:

- (a) "Procedures for corrective and preventative action have not been adequately established."
- (b) "Complaints involving the possible failure of a device to meet any of its specifications were not investigated where necessary."

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<sup>8</sup> See 21 U.S.C. §374(b).

<sup>9</sup> *Id.*

(c) “Written MDR [Medical Device Report] procedures have not been implemented.”

12. The Form 483’s first finding – that the Northridge facility failed to establish “[p]rocedures for corrective and preventative action” – related to the facility’s failure to “accurately calculate the risk associated with the failed retainer rings.” The FDA found that the facility’s risk classification assessments “resulted in underestimation of the Occurrence of harm . . .” The Form 483 continued, “all of these assessments used the same underestimated calculation for probability of occurrence and concluded again that the risk remained in Zone [redacted] even after a significant increase in complaints.” Further, “the probability of occurrence has been underreported because the current calculation uses the ‘[redacted] of Affected Product’ [redacted] instead of the number of products actually in the field ([redacted]). By using the number of products [redacted] your firm is including devices that are not in use by patients, thereby under-estimating the probability of occurrence.” The Form 483 also determined that the Northridge facility “failed to implement a field action in a timely manner, to prevent patient deaths and serious injuries” and failed to timely effect a recall of the MiniMed 600 Series pumps, noting that although the company sent notifications regarding the defective pumps, “Technical Support personnel were instructed to tell customers that this field action was not a recall.” “Technical Support personnel were also instructed to not replace defective pumps that were outside the warranty period.” The Form 483 further noted that the facility “continues to receive reports of failures with the re-designed black retainer rings.” Finally, related to the first finding, the Form 483 noted “a cyber-security vulnerability” with the MiniMed 508

insulin pumps and the MiniMed Paradigm insulin pumps “whereby an unauthorized user could hack the pumps [redacted].” “An evaluation of ‘Cyber-Risk of Patient Harm’ concluded that the [redacted] vulnerability due to lack of encryption could result in catastrophic harm to patients and classified the risk as ‘[redacted]’ risk requiring remediation.” However, Medtronic “failed to address the root cause of the vulnerability,” “did not implement any corrective actions to address this vulnerability of the affected pumps,” and “failed to conduct an effective recall.”

13. The Form 483’s second finding – that “[c]omplaints involving the possible failure of a device to meet any of its specifications were not investigated where necessary” – concerned the facility’s failure to investigate complaints following the purported remedied retainer ring (the new, black retainer ring), which “may suggest that the corrective action (ring material change) may have not been effective.” The Form 483 noted that the facility “confirmed the failures [with the new retainer ring], but no formal investigation was initiated.” The facility also received a complaint of a patient receiving un-programmed boluses of insulin, yet the facility “failed to review the actual pump history to verify the boluses reported by the patient.” Additionally, the facility received a report of a patient experiencing multiple pump sensor failures, yet the facility “did not analyze the defective sensors[.]” Further, the facility received a report of a frozen display screen, which, per the “Risk Analysis Document,” posed “the risk of the pump user interface becoming unresponsive and the patient not being able to stop or start insulin delivery [which] could result in death (over delivery) or diabetic ketoacidosis (under delivery).”

Nevertheless, the facility did not use its available tools “to analyze the returned defective pump to ensure that a thorough investigation is conducted.”

14. The Form 483’s third finding – that “[w]ritten MDR procedures have not been implemented” – related to the facility’s “fail[ure] to submit Medical Device Reports (MDRs) for [redacted] customer complaints . . . related to MiniMed 600 Series Insulin pump retainer ring failures where the returned product analysis confirmed that the reservoir was unable to lock into place.”<sup>10</sup> “The rationale for not submitting the MDRs documented for [redacted] of these complaints was that the information does not suggest the malfunction would cause or contribute to a serious injury []; however, all of these complaints were received after the Field Product Impact Assessment [] concluded that the failure of the ring could potentially result in under delivery of insulin leading to hyperglycemia, severe hyperglycemia, or diabetic ketoacidosis; or over delivery of insulin leading to mild or severe hypoglycemia or death.” Additionally, the facility “failed to submit [redacted] MDRs within [redacted] of becoming aware of information that

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<sup>10</sup> “The Medical Device Reporting (MDR) Regulation requires medical device manufacturers, device user facilities and importers to establish a system that ensures the prompt identification, timely investigation, reporting, documentation, and filing of device-related death, serious injury, and malfunction information.” See <https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/inspection-guides/medical-device-reporting>. “Mandatory reporters (that is, manufacturers, device user facilities, and importers) are required to submit to the FDA certain types of reports for adverse events and product problems about medical devices.” See <https://www.fda.gov/medical-devices/medical-device-safety/medical-device-reporting-mdr-how-report-medical-device-problems#overview>. “Medical Device Reporting (MDR) is one of the postmarket surveillance tools the FDA uses to monitor device performance, detect potential device-related safety issues, and contribute to benefit-risk assessments of these products.” *Id.*

reasonably suggests that MiniMed Infusion pumps have malfunctioned and would be likely to cause or contribute to death or serious injury if the malfunction was to recur.”

15. The three broad categories of systemic, facility-level deficiencies summarized above implicated the processes and safety controls (or lack thereof) at the Northridge facility. Unlike a lab that simply required more detailed cleaning or missing equipment servicing records, based on my knowledge and decades of relevant experience, these deficiencies were not easily or quickly fixed. Rather, these deficiencies implicated an entrenched lack of adequate safety and compliance procedures that were necessary to ensure that device defects and complaints arising from devices coming out of the Northridge facility were adequately investigated, remediated, and reported to the FDA. In my opinion, these systemic, pervasive deficiencies could not reasonably be remediated and cleared by the FDA in a matter of weeks or months. Rather, in my experience, these fundamental deficiencies, which implicated the Northridge facility as a whole, required protracted remediation efforts that could take a year or more to complete, document, and verify for effectiveness. This protracted process would include devising new risk models, securing and analyzing device-specific malfunctions from a universe of >57,000 MDR reports, establishing acceptable MDR reporting guidelines, presenting these efforts to the FDA, and obtaining assurance from the FDA that the efforts sufficiently remediated the previously identified deficiencies. I agree with Medtronic’s acknowledgement in the

December 9, 2021 Warning Letter that the deficiencies first identified in the Form 483 required “extensive remediation.”<sup>11</sup>

16. Because these deficiencies concerned facility-wide issues that implicated the Northridge facility’s ability to monitor, remediate, and report product defects leading to potential severe patient injury and death, it is my opinion that FDA approval of the MiniMed 780G and any other new device coming out of the Northridge facility would be necessarily stalled from when those defects were identified by the FDA until the deficiencies were remediated, documented, and tested for effectiveness to the FDA’s satisfaction.

17. I have also reviewed correspondence sent from Medtronic to the FDA following receipt of the Form 483 to confirm the above cited “extensive remediation.” I understand that Medtronic sent at least five such letters:

(a) On July 28, 2021, Sean Salmon (Executive Vice President and President, Diabetes Operating Unit) and Chirag Tilara (Vice President, Quality) sent their first letter to the FDA, stating that “Medtronic is taking actions to address each of the three observations in the FDA-483, including actions related to our risk management system, complaint investigations, and Medical Device Report (MDR) accuracy and timeliness. In addition, Medtronic MiniMed has responded to two Management Discussion topics discussed during the closing meeting on July 7, as presented by the investigator.” In light of the systemic deficiencies identified in the Form 483, the letter stated that “Medtronic

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<sup>11</sup> During a January 10, 2022 healthcare conference, Medtronic CEO Geoffrey Martha stated that the facility deficiencies required “extensive remediation.”

MiniMed is taking broad, systemic actions to improve the capability and rigor of our processes and execution.” The letter attached an appendix describing “the actions that will be taken to address the observations,” including “planned dates of completion for future actions.” In the appendix, Medtronic stated that the facility planned to engage a “well-respected quality consulting organization, to conduct rigorous and thorough evaluations of the implementation and effectiveness of the actions identified in this Form-483 response” and would continue to conduct reviews “until all actions are fully implemented and verified effective.” The appendix also identified numerous action items the facility planned to undertake to address the deficiencies, with estimated completion dates ranging from August 3, 2021 to January 31, 2022.

(b) On September 3, 2021, Sean Salmon and Chirag Tilara sent their second letter to the FDA, which was the facility’s “first update to the initial response regarding the Form FDA-483 . . . that was submitted on July 28, 2021.” It stated that “[a]ll remaining actions are on track for completion by the planned due dates.” The appendix identified numerous action items the facility planned to undertake to address the deficiencies, with estimated completion dates ranging from September 10, 2021 to January 31, 2022.

(c) On October 8, 2021, Sean Salmon and Chirag Tilara sent their third letter to the FDA, which was the facility’s “second update to the initial response regarding the Form FDA-483 . . . that was submitted on July 28, 2021.” It stated that “[a]ll remaining actions are on track for completion by the planned due dates.” The appendix identified numerous action items the facility planned to undertake to address the deficiencies, with

estimated completion dates ranging from October 15, 2021 to January 31, 2022. The appendix also referred to corrective actions related to “Complaint Investigations” that were incomplete and did not have an estimated completion date. Rather, the appendix stated that the corrective actions would be “managed through the CAPA [Corrective Action and Preventative Action] process” and purported to close the actions “for purposes of reporting to FDA.”

(d) On November 5, 2021, Sean Salmon and Chirag Tilara sent their fourth letter to the FDA, which was the facility’s “third update to the initial response regarding the Form FDA-483 . . . that was submitted on July 28, 2021.” It stated that “[a]ll remaining actions are on track for completion by the planned due dates.” The appendix identified numerous action items the facility planned to undertake to address the deficiencies, with estimated completion dates ranging from November 19, 2021 to June 24, 2022. The appendix also referred to remediation plans and complaint investigation corrective actions that were incomplete and did not have an estimated completion date. Rather, the appendix stated that the corrective actions would be “managed through the CAPA process” and purported to close the actions “for purposes of reporting to FDA.”

(e) On December 3, 2021, Sean Salmon and Chirag Tilara sent their fifth letter to the FDA, which was the facility’s “fourth update to the initial response regarding the Form FDA-483 . . . that was submitted on July 28, 2021.” It stated that “[a]ll remaining actions are on track for completion by the planned due dates.” The letter included a table with numerous outstanding items, but the “Expected Phase” column was fully redacted. The appendix identified numerous action items the facility planned to undertake to address

the deficiencies, with estimated completion dates ranging from January 28, 2022 to January 14, 2023. The appendix also referred to remediation plans and complaint investigation corrective actions that were incomplete and did not have an estimated completion date. Rather, the appendix stated that the corrective actions would be “managed through the CAPA process” and that “Medtronic MiniMed will provide updates on remediation activity on a periodic basis until remediation is complete.”

18. Based on my experience, these letters reflected the extensive, prolonged remediation required by the systemic deficiencies identified in the Form 483. Sean Salmon and Chirag Tilara acknowledged in their July 28, 2021 letter that “broad, systemic actions” were required to address the deficiencies identified in the Form 483. Indeed, it took Medtronic three weeks to submit its first reply to the Form 483. From the outset, the July 28 letter identified extensive actions to address each of the three observations in the FDA 483 concerning the risk management systems, complaint investigations, and MDR accuracy and timeliness. For example, Table 1 to the July 28 letter identifies 23 initial action items to support the resolution of these three major issues. In my opinion, these are time consuming activities which, collectively, would take a year or more to complete, document, test for effectiveness, and present to the FDA, not including FDA feedback and time to sign off on completed tasks. The five major Medtronic-cited actions included:

(a) Proactive replacement of MiniMed 600 Series devices with a clear retainer ring in the United States. Medtronic proposed to prepare – but had not yet completed – a “detailed execution plan” at the first monthly update. This activity is tantamount to a product recall, which is a significant effort.

(b) Proactive retrieval of key fobs from active users of Paradigm systems who have received Paradigm remote key fobs since 1999. This also represents a product recall on the same track as the MiniMed 600 Series devices.

(c) Further risk management system refinements, including how to evaluate actions to better manage safety risk and how to ensure prompt, urgent attention when evaluating potential actions including supplemental independent evaluation. Risk management refinements of this nature take significant time to implement and to assess plan success.

(d) Further implementation of systemic improvements throughout the complaint handling, complaint investigation, MDR reporting, and CAPA processes. To leverage best practices and independent subject matter expertise, Medtronic planned to deploy resources and experts from other business divisions as well as hire additional resources. This, too, requires significant time to implement and to gauge plan success.

(e) Last, Medtronic planned to hire an outside quality consulting organization to conduct rigorous and thorough evaluations of the implementation and effectiveness of the remediation plans identified in July 28 letter. This also takes significant time to implement solutions and introduced the potential that additional deficiencies would be uncovered.

19. Moreover, as time went on and Medtronic continued to send its second, third, fourth, and fifth update letters, many deficiencies remained with estimated completion dates spanning well into 2022 and 2023 or with no estimated completion date at all. Putting aside what were in my opinion optimistic estimated completion dates, even if Medtronic

had succeeded in completing some or all of the required remediation by their estimated dates, it would take many months after completion for the FDA to review the remediation efforts, review the voluminous documentation describing the efforts, and verify that the corrective actions were effective. Notably, I am aware of no evidence showing that between the July 7, 2021 Form 483 and the final letter from Medtronic dated December 3, 2021 that the FDA agreed that any of Medtronic's remediation efforts were effective.

20. On December 9, 2021, the FDA issued a Warning Letter to Medtronic arising from the deficiencies identified in the Form 483. Consistent with my understanding of the protracted nature of the remediation required by the deficiencies presented in the Form 483, the Warning Letter cited the Northridge facility's failure to provide "evidence of implementation for all corrections and corrective actions" and stated, "your corrective actions are still in process, and you have not yet conducted effectiveness checks to ensure the updated procedures and required employee training will prevent reoccurrence of the identified deficiencies." Further, the Warning Letter stated, "as part of your corrective actions are not yet complete, including your retrospective complaint review and systemic complaint investigation processes and training, we cannot evaluate the adequacy of your response at this time." Reflecting the reality that the deficiencies would not be cleared until the corrective actions were completed and determined to be effective, the Warning Letter stated that although the facility committed to implement a new training program, "you also report that training of personnel will not be complete until [redacted]." Similarly, relating to a proposed new risk management plan, the Warning Letter stated, "[i]t is unclear if this plan incorporates an adequate risk analysis . . . and you state that your planned actions

will not be complete until [redacted].” Because items were “still in progress,” the FDA, as expected, declined to clear the deficiencies. The Warning Letter’s determination is consistent with my opinion that the facility- and process-based deficiencies identified in the Form 483 would take at least a year, if not longer, to complete, assess, and verify for effectiveness. Notably, the FDA did not lift the Warning Letter until April 2023.<sup>12</sup>

I declare under penalty of perjury that the foregoing is true and correct. Executed on 26 April 2024, at London, United Kingdom.

  
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PHILIP T. LAVIN, PH.D.

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<sup>12</sup> On April 25, 2023, the FDA sent a letter to Geoffrey Martha stating that “it appears that you have addressed the violation(s) contained in the Warning Letter.” See <https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/medtronic-minimed-inc-617539-04252023>.

Philip T. Lavin PhD, FASA, FRAPS

March 12, 2024

**Name:** PHILIP T. LAVIN**Industry Experience:**

Summary: 50 years in clinical trials serving as an expert biostatistician, strategist, and regulatory consultant

2013 – Present	Principal Lavin Consulting LLC
1988 – Present	Founder and Executive Director Boston Biostatistics Research Foundation Inc.
2019 – Present	Co-founder Melior Capital Management

**Current responsibilities include:**

Senior biostatistics (strategic planning, study design, endpoint construction, modeling, analysis, and representation), regulatory strategy (agency interaction and presentation), helping sponsors secure approval for drugs, biologics, and devices and reimbursement leading to 82 regulatory approvals and clearances (43 PMAs/CE Marks, 23 NDAs, 4 BLAs, 2 de novos, 1 HDE, 9 510k clearances) and one GRAS petition.

2011 – 2013	Executive Vice President, Strategic Planning and Innovation Center Aptiv Solutions
2007 – 2011	Executive Chairman and Vice Chairman of the Board Averion International
1983 – 2007	Founder and CEO Averion International (formerly Boston Biostatistics Inc.)
1983 – 2015	Special Government Employee FDA

**Past responsibilities included:**

Executive management, strategic management, regulatory strategy, biostatistics, proposals, presentations, publications, and collaborations in pre-clinical studies, clinical trials, post-market approvals, and innovative modeling approaches for study design, longitudinal modeling, meta and mega analyses, epidemiology, cost-benefit modeling, and health care reimbursement, while serving as an FDA advisor and panel member for drugs, devices, and biologics.

**Statistical and Regulatory Contributions:**

1. The quasi-non-inferiority design for reducing sample size in randomized clinical trials by assuming that the innovator device has some advantage rather than no advantage
2. The use of composite endpoints for clinical trial powering and effectiveness demonstration
3. The concept of multi-dimensional efficacy for single pivotal studies in support of registration
4. The use of hierarchical testing sequence to preserve Type I error to extend labeling claims
5. The use of longitudinal modeling in interim analyses to maximize information available for decision making whether to stop, continue, or expand a clinical trial

**Philip T. Lavin PhD, FASA, FRAPS****March 12, 2024**

6. The minimal alpha spending for blinded interim looks to re-estimate sample size
7. The concept of sensitivity, specificity, and lead time for biomarkers and companion diagnostics
8. The importance of using the same formulas to compute power and statistical significance
9. The use of prospective statistical analysis plans to pre-define populations, endpoints, and analysis methods prior to database lock to control Type I error
10. The exclusion of non-treatment related deaths and progressions from serious adverse event counts in oncology studies
11. The use of computer-generated edit checks to clean data prior to database lock.

**Academic Experience:**

1989 – 2005	Adjunct Associate Professor, Clinical Associate Professor Harvard Medical School, Boston, MA 02115
1983 – 1989	Associate Professor Harvard School of Public Health Boston, MA 02115
1977 - 1983	Assistant Professor Harvard School of Public Health Boston, MA 02115
1974 - 1977	Research Assistant Professor, Statistical Laboratory, Statistical Science Division, SUNY at Buffalo, Buffalo NY
1972 – 1974	Assistant Professor of Research, Division of Applied Mathematics, Brown University, Providence RI

**Responsibilities included:**

Teaching, research, cooperative group (ECOG, GITSG) collaborations, and publications

**Education:** Brown University, Providence RI  
PhD, Applied Mathematics (Statistics), 1972

University of Rochester, Rochester NY (Summa Cum Laude)  
AB, Mathematics, 1968

**Patents:** System and Method for Diagnostic Vector Classification Support (to differentiate between benign and malignant breast masses based on three internal and two external features using statistical algorithms); Patent # 9,398,893 issued July 26, 2016  
  
System and Method for Diagnostic Vector Classification Support; Patent # 10,026,170 issued July 17, 2018

**Presentations:**

2016	AHA Frontiers in Stem Cells Research: Statistical Considerations FDA Industry Workshop: Writing Statistical Contracts
2015	SOCRA: The Statistics Behind Risk Based Monitoring MDIC: Optimizing Medical Device Study Designs FDA Industry Workshop: Statistical IP Considerations

**Philip T. Lavin PhD, FASA, FRAPS****March 12, 2024****SABCS: Breast Cancer Detection Algorithms**

2014	SABCS: Nomogram for Breast Cancer Diagnosis RAPS: Adaptive Designs for Regulatory Submissions
2013	AIUM: Opto-acoustics for Breast Cancer Detection RAPS: Maximizing Good Relationships with Regulatory Agencies
2012	Q1 Productions: Planning and Executing Adaptive Designs Q1 Productions: Statistical Strategies for Medical Device Studies
2011	Q1 Productions: Statistical Strategies for Medical Device Studies IBC: Reimbursement Planning Strategies using Phase 3 Data
2010	IBC: Adaptive Designs for Biologics and Drugs
2009	IBC: Statistical Designs for Biomarkers
2008	JSM: Quasi-non-inferiority Designs for Medical Devices
2007	Mass BioTech Council: "Statistical Challenges Supporting DMCs" Neonatology Summit: "Mortality and LOS Modeling Issues Comparing Surfactants" American Statistical Association: "Designing Quasi-superior Device Studies"
2006	American Statistical Association: "Common Themes in Medical Device Studies"

**Litigation Support:**

45 cases (plaintiffs and defendants)

36 reports (torts, patent infringement, claims, contract disputes, false and misleading statements)

29 depositions (clinical trials, biostatistics, regulatory, science)

4 court appearances (very low calorie diets, knee implants, oncology)

Philip T. Lavin PhD, FASA, FRAPS

March 12, 2024

**FDA/EMA Approvals and Clearance/Clinical Trials Experience:**

<u>Drugs</u> <u>(23 NDA approvals):</u>	<u>Biologics</u> <u>(4 BLA approvals):</u>	<u>Devices (43 PMAs/CE Marks, 2 de novos, 1 HDE approvals, 9 510k clearances):</u>
Acid Reflux (Axid)	Burns	Adhesion Prevention (ADCON-L)
Acne (Estrostep, Azelex)	COVID-19	Angina (TMR)
AIDS (Foscavir)	Decubitis Ulcers	Angiography (SPY-PHI)
Anemia (Fereheme)	Gum Disease (GINTUIT)	Ankle Healing (Augment)
ARDS	Hepatitis B and C	Artificial Organs: Heart, Kidney, Liver
Asthma (Albuterol)	Huntington's Disease	Biomarkers (CA-125, PSA, sIL2r)
Bipolar disorder	Liver Assist Device	Breast Cancer Imaging (Imagio)
COVID-19	Melanoma (OncoVex)	Cardiac Access (Crossing Solutions)
Cystic Fibrosis (ZenPep)	Multiple Sclerosis	Cardiac Adhesions (REPEL-CV)
Cushing Syndrome	Oncology (ONTAK)	Catheter Lock Solution (Zuragen)
Depression	Psoriasis	Cervical Disc (Mobi-C [1,2], ProDISC-C [1,2])
Diabetes	Renal Assist Device	Cervical Dysplasia Detection (LUNA, DysisMap)
Endometriosis	Rheumatoid Arthritis	Colorectal Cancer Screening (ColoGuard)
Epilepsy	Sepsis	Connective Tissue (Orthogold 100)
Frederich's Ataxia	Transplants	Cryoablation (FROSSTY)
Gastric Ulcers	Vaccines (OspA)	Dermal Filler (RADIESSE)
Glaucoma	Wound Healing	Diabetes: Glucose Monitoring
Hepatology		Dialysis (Zuragen)
Hyperlipids (Cholestagel)	<u>GRAS (1 approval)</u>	Fat/Flanks Reduction (eon FR)
Hyperkalemia (Lokelma)	Enteral Nutrition (IMPACT)	Femoral Artery Closure (VCD [3])
Hypertension		Finger Implant (PCP)
Infection (Ceftobiprole)		Fracture Healing (SAFHS)
Lipidemia (Lipitor)		Hearing Aid (Naída CI M processor/software)
Macular Edema		Hip Implant (C/C)
Motion Sickness (Refaximin)		Imaging: US, CT, OA (Imagio)
Multiple Sclerosis		Knee: Cartilage repair and regeneration
Obesity		Knee OA IA (OrthoVisc, Synvisc, SUPARTZ, Gel-One, Monovisc, GenVisc850, Hymovis)
Oncology (Adriamycin)		Lumbar Disc (ProDISC [1,2])
Oncology: GI (Erbitux), Lung, Brain, H&N, Ovarian		Metastatic Pain Relief (Quadramet)
Onychomycosis		Neurologic Vessel Repair (LVIS, WEB, FRED)
Ophthalmology (Glaucoma, Macular Disease, Dry Eye)		Neurological Impulses (NC-Stat)
Osteo-arthritis (Flurbiprofen)		Ophthalmology (DR [IDx])
Pain Control (Dyloject, Nasal Morphine, Ketamine)		Osteoporosis Detection (SAHARA)
Pain Relief (EMLA)		Periodontal Regeneration (GEM 21S)
Pulmonary: COPD		Peripheral Crossing System (SoundBite)
Renal (Renagel)		Rib Spacer (VEPTR)
Rosacea (Finacea)		Sacral Implants (SI-BONE)
Substance Abuse (Naltrexone, Nalbuphine)		Shoulder (InSpace)
Suicide Prevention		Spinal Fusion Cage (BAK)
Urinary Incontinence		Spinal Stimulation (Neuros E-P)
		Ulcers: Decubitis, Venous Stasis
		Urinary Incontinence (Stress, Urge, Mixed)
		Wound Healing (APLIGRAF)

**Philip T. Lavin PhD, FASA, FRAPS****March 12, 2024****Research Expertise:**

<u>Clinical:</u>	<u>Applications:</u>	<u>Methodology:</u>
Biomarkers	Multiple endpoints	Adaptive design
505(b)2	Multiple comparisons	Sequential analysis
Bioequivalence	Composite endpoints	Longitudinal modeling
Biosimilars	Artificial intelligence	Simulations
Devices	Multi-study modeling	Exact inference
Drugs	Cost-benefit modeling	Prediction
Combination Products	Optimization models	Survival analyses
Imaging	Instrument validation	Time series
Biologics	Meta analyses	Markov processes
Quality of Life	Cost reimbursement	Bayes modeling
Companion Diagnostics	Adaptive modeling	Interim analyses
Vaccines	Registries	Survey sampling
Veterinary Products	Predictive models	Epidemiology
Pharmacovigilance	Sample size models	Classification
		Missing at random

**Technical Experience:**

Software: MS Word, PowerPoint, Excel, StatXact, nQuery, EaSt, ADDPLAN

**Honors/Awards:**

2009	RAPS Fellow
2008	ASA Fellow
2007	Earl Robinson Award, The American Society of Periodontology
2007-	Who's Who in the World
2006	Earl Robinson Award, The American Society of Periodontology
2000	The American Society of Reproductive Surgery
1999 -	Who's Who in America
1985 -	Who's Who in International Medicine
1984 -	Who's Who in Cancer Research
1981 -	Who's Who in Technology Today
1976 -	Who's Who in American Men of Science
1968 - 1972	National Science Foundation (NSF) Fellowship
1968	Phi Beta Kappa

**Public Service:**

1987 – 1993	NASCO, Continuing Education
1986 – 1997	Statistical Editor, Antimicrobial Agents and Chemotherapy
1986 – 1989	Editorial Board, Drug Information Association (DIA)
1983 - 2015	FDA Special Government Employee
1981 – 1999	NIH Grants and Contracts Reviewer

**Affiliations/Memberships:**

2013-	American Society of Nephrology
2012-	World Molecular Imaging Society

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1986-	Regulatory Affairs Professional Society
1984-	Drug Information Association
1979-	Biometrics Society
1976-	American Statistical Association

**Publications****ORIGINAL ARTICLES**

1. Douglass HO, Jr., Lavin PT. A Study of Nitrosourea Toxicity in Gastrointestinal Protocols of the Eastern Cooperative Oncology Group, *Cancer Treatment Reports*, 60:769-780, 1976.
2. Schein P, Lavin P, et al for the Gastrointestinal Tumor Study Group, Randomized Phase II Clinical Trial of Adriamycin, Methotrexate, and Actinomycin D, in Advanced Measurable Pancreas Carcinoma, *Cancer*, 42:19-22, 1978.
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- postmenopausal patients with pelvic masses: discrimination of benign from malignant disease. Am J Obstet Gynecol. 159(2):341-6, 1988.
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